

January 25, 2006

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, January 25, 2006, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
WARREN G. HEIDT, Director of Public Works
RHONDA G. HENDERSON, Director of Planning
DIANA C. STULTZ, Zoning Administrator
WILLIAM L. VAUGHN, Director of Community Development
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION.

Chairman Breeden called the meeting to order at 6:00 p.m.

Community Development Director Vaughn led the Pledge of Allegiance, and Supervisor Floyd gave the Invocation.

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STUDENTS WELCOMED.

The Board welcomed two seniors from Turner Ashby High School Government Class.

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APPROVAL OF MINUTES.

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the organizational meeting of January 11, 2006.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

Supervisor Kyger asked about the need for lighting at several locations in his district, including Route 704 and for a bridge in Mount Crawford. Mr. Komara noted that, typically, funding was shared by others such as businesses in the area, Ruritan Clubs, etc. However, in these particular locations, no such funding is available. He intends to explore several possibilities such as pavement markings and will report his suggestions at a future meeting.

There was a discussion concerning the need for improvements to Route 613 near Route 33 in Supervisor Ahrend's district. As the work would require entering the stream, Mr. Komara noted that getting permission from the Corps of Engineers was often difficult.

Supervisor Floyd asked about the timing for road improvements to Duck Pond Road and asked if raised deflectors could be used on the bridge. Mr. Komara said improvements to Route 676 were planned for the coming summer but much depended on moving the utilities. He agreed that raised deflectors would be a good option to explore.

Supervisor Cuevas asked about the timing for improvements to Routes 812 and 799. Mr. Komara said the funding for Route 812 would be available after July 1. He noted that the utility poles had been moved back on Route 799 and the fencing was ready to be moved.

Supervisor Kyger asked the staff to look into additional traffic enforcement along Airport Road in the

Bridgewater area, from Route 42 to Spring Hill Road, near the Garst property.

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FUNDING - RENOVATIONS/ADDITIONS TO J. FRANK HILLYARD AND WILBUR S. PENCE MIDDLE SCHOOLS.

Following a presentation by Dr. John Kidd, School Division Superintendent, concerning funding for renovations/additions to J. Frank Hillyard and Wilbur S. Pence Middle Schools, as recommended by the Finance Committee, on motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board agreed to reduce the Board's original commitment from \$23,720,000 to \$20,500,000 for these projects and authorized the County Manager and Division Superintendent to proceed with the structuring of the financing, including bridge financing, until funds are available from other sources, such as the State Literary Fund.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated January 19, 2006, concerning the need to work with the Health Department to develop a proposal for the State to provide inspection services on alternative sewage disposal systems. He advised that the County needs to avoid the impact that failing systems will have on the County in the future. He also reported on annexation matters; development matters; and progress on the Mt. Clinton storage building.

He reviewed several bills pending before the General Assembly: HB 568 which would standardize statewide taxes on telecommunications, with a possible \$1,231,000 loss of revenue to the County; SB 373 which would give local governments the authority to allow transfer of development rights; and Senate Joint Resolution 361 which would eliminate the machinery and tools tax which is \$7.4 million for the County.

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Brown's staff report dated January 20, 2006, concerning zoning matters and a deed of dedication and gift for Magnolia Ridge Subdivision.

On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized the County Administrator to accept the following Deed of Dedication and Gift for Magnolia Ridge Subdivision on behalf of the County.

THIS DEED OF DEDICATION AND GIFT, exempt from recordation taxes pursuant to Virginia Code §58.1-811(A)(3) and (D) is made this 4th day of January, 2006, by and between ROCKINGHAM ATLANTIC, LLC, a Virginia limited liability company, Grantors, and ROCKINGHAM COUNTY, VIRGINIA, Grantee. In addition, S & E FARMS, INC., a Virginia corporation which has been dissolved, to be indexed as an additional Grantor, acting by and through its Trustees in Dissolution, Rodney E. KIBLER, Theodore KOSTICH, Robert J. LYNCH and Frank W. LUTH, and its shareholders Rodney E. KIBLER, Theodore KOSTICH, Sandra A. KOSTICH, Robert J. LYNCH and Frank W. LUTH, all to be indexed as additional Grantors, and all of whom join herein as an interested party by virtue of its prior ownership of the subject property at the time of its platting described below.

WHEREAS, S & E Farms, Inc. did subdivide Rockingham County tax map parcel 126-(A)-47, comprised of 57.132 acres, more or less, in the Central District, Rockingham County, Virginia, into 94 residential lots known as Magnolia Ridge Subdivision, by subdivision plat dated August 5, 2005, entitled "Magnolia Ridge Subdivision" and prepared by Hal T. Benner, L.S. (the "Plat") of record in the Office of the Clerk of the Circuit Court of Rockingham County, Virginia, in Deed Book 2738, Page 84;

WHEREAS, it was intended that the Plat dedicate to public use the roads shown and designated on the Plat as Magnolia Ridge Drive, Marigold Circle, Dahlia Court and Ridgecrest Court, as well as public utility easements and the Pump Station Lot shown and designated on the Plat;

WHEREAS, the dedication language was inadvertently omitted from the Plat, such that the Plat did not effect the intended public dedications;

WHEREAS, concurrently with recordation of the Plat, Rockingham Atlantic, LLC acquired all of the lots in Magnolia Ridge Subdivision, and all appurtenances and rights-of-way thereto, from S & E Farms, Inc., by deed dated September 8, 2005, of record in the aforesaid Clerk's Office in Deed Book 2738, page 93;

WHEREAS, S & E Farms, Inc. was dissolved by the filing of Articles of Dissolution and Certificate of Termination effective on November 30, 2005;

WHEREAS, at the time of its dissolution, the directors of S&E Farms, Inc. were Rodney E. Kibler, Theodore Kostich,

Robert J. Lynch and Frank W. Luth, and the shareholders of S&E Farms, Inc. were Rodney E. Kibler, Theodore Kostich, Sandra A. Kostich, Robert J. Lynch and Frank W. Luth ;

WHEREAS, pursuant to the provisions of Article 16, Dissolution, of the Virginia Stock Corporation Act of the Code of Virginia (Va. Code 13.1-742 through 755), the directors of S&E Farms, Inc. at the time of its dissolution and termination become trustees in dissolution of the corporate assets then held by the corporation;

WHEREAS, the shareholders of S&E Farms, Inc. are joining in this deed for the sole purpose of transferring any interest they may have in the land hereby conveyed by virtue of the dissolution and termination of the corporation prior to conveyance of such assets;

WHEREAS, the Trustees in Dissolution and Shareholders of S & E Farms, Inc. and Rockingham Atlantic, LLC intend by this Deed of Dedication and Gift to dedicate and convey to the County of Rockingham, Virginia, for public use, all of the streets within Magnolia Ridge Subdivision, as well as all public utility easements and the Pump Station Lot, all as shown on the Plat;

NOW, THEREFORE, Rockingham Atlantic, LLC; Rodney E. Kibler, Theodore Kostich, Robert J. Lynch and Frank W. Luth, as trustees in dissolution of S & E Farms, Inc., and Rodney E. Kibler, Theodore Kostich, Sandra A. Kostich, Robert J. Lynch and Frank W. Luth, as all shareholders of S & E Farms, Inc. at the time of its dissolution, all as Grantors, do hereby dedicate to Rockingham County, Virginia, Grantee, for public purposes, (a) fee simple title to all of "Magnolia Ridge Drive," "Marigold Circle," "Dahlia Court," and "Ridgecrest Court" being the streets shown and designated on the Plat of Magnolia Ridge Subdivision; (b) perpetual, non-exclusive easements across the Property which are designated and shown on the Plat as public sanitary sewer easements, water line easements, drainage easements, and drainage and utility easements, excluding easements specifically identified on the Plat as "private" easements; and (c) fee simple title to the Pump Station Lot as shown and designated on the Plat, together in each case with all improvements thereon and appurtenances thereto.

This dedication is with the free consent and in accordance with the desire of the undersigned. This conveyance is subject to easements, conditions, restrictions and reservations contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the property hereby conveyed, which have not expired by limitation of time contained therein or otherwise become ineffective.

This dedication is SUBJECT TO reserved easements in favor of Rockingham Atlantic, LLC and its successors and assigns, for installation and continued use and maintenance of underground drainage and utilities facilities within the boundaries of the streets and easements.

Nothing in this Deed of Dedication and Gift shall obligate Rockingham County, Virginia to install or maintain any road, public utility, drainage easement, or other such

facility shown on the Plat unless otherwise agreed to by Rockingham County.

IN WITNESS WHEREOF, the undersigned have caused this deed to be executed in their respective names by the undersigned on due authority.

TRUSTEES IN DISSOLUTION AND
SHAREHOLDERS OF S & E FARMS, INC. AS
OF NOVEMBER 30, 2005

_____(SEAL)
Rodney E. Kibler, Trustee in Dissolution
And Shareholder

_____(SEAL)
Theodore Kostich, Trustee in Dissolution
And Shareholder

_____(SEAL)
Robert J. Lynch, Trustee in Dissolution
And Shareholder

_____(SEAL)
Frank W. Luth, Trustee in Dissolution
And Shareholder

_____(SEAL)
Sandra A. Kostich, Shareholder

ROCKINGHAM ATLANTIC, LLC

By:_____(SEAL)
Adam Fried, Manager

STATE OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this ____ day of _____, 2006, by Rodney Kibler, as Trustee in Dissolution and shareholder of S&E Farms, Inc, a dissolved Virginia corporation.

My commission expires:_____.

(SEAL) _____ Notary Public
STATE OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this ____ day of _____, 2006, by Theodore Kostich, as Trustee in Dissolution and shareholder of S&E Farms, Inc, a dissolved Virginia corporation.

My commission expires:_____.

(SEAL) Notary Public

STATE OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this ____ day of _____, 2006, by Robert J. Lynch, as Trustee in Dissolution and shareholder of S&E Farms, Inc, a dissolved Virginia corporation.

My commission expires:_____.

(SEAL) Notary Public

STATE OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this ____ day of _____, 2006, by Frank W. Luth, as Trustee in Dissolution and shareholder of S&E Farms, Inc, a dissolved Virginia corporation.

My commission expires:_____.

(SEAL) Notary Public

STATE OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this ____ day of _____, 2006, by Sandra A. Kostich, as shareholder of S&E Farms, Inc, a dissolved Virginia corporation.

My commission expires:_____.

(SEAL) Notary Public

STATE OF VIRGINIA
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me in the jurisdiction aforesaid this ____ day of _____, 2006, by Adam Fried, as Manager of Rockingham Atlantic, LLC, on behalf of such company.

My commission expires:_____.

(SEAL) Notary Public

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Accepted pursuant to Virginia Code Section 15.2-

APPROVED AS TO FORM:

THE BOARD OF SUPERVISORS OF
ROCKINGHAM COUNTY, VIRGINIA

Rockingham County Attorney

By:

Title:

COMMONWEALTH OF VIRGINIA
COUNTY OF _____, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby
certify that _____ as _____ of
_____ on behalf of The Board of Supervisors of
Rockingham County, Virginia, whose name is signed to the foregoing Deed appeared before
me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____, 20__.

Notary Public

My commission expires: _____

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. King's staff
report dated January 20, 2006, concerning the renaming of
the technological industrial park on Valley Pike; the
addition to the County Garage on Pleasant Valley Road
(substantially completed); and progress on a 2006 Fiscal
Impact Statement.

He asked the Board members to provide their input to
him over the next 30 days on their recommendations for
signage for the Valley Pike site.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Heidt's staff
report dated January 19, 2006, including information
concerning the schedule for Penn Laird Drive and Water
Tower Road sewer; Lakewood/Massanetta Springs pump station
essentially completed with restoration work remaining;
McGaheysville WWTP (preliminary engineering report reviewed
by staff); Phase III Landfill extension (completeness
review received from DEQ; Grassy Creek tank (construction
complete); Three Springs Water system analysis (final
report expected February 2006); Pleasant Run Interceptor
(preliminary engineer report authorized); Lily Gardens

(planning grant approved); City of Harrisonburg Waste to Energy Plant.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated January 25, 2006, including information concerning the draft McGaheysville Area Plan; year-end Development Activity Report; priority projects underway, tabled requests, and upcoming requests.

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PUBLIC HEARING - SPECIAL USE PERMITS.

At 7:00 p.m., Chairman Breeden declared the meeting open for a public hearing on the following special use permit applications. Ms. Stultz reviewed the particulars of the requests.

S06-05, request of Allen Knicely for a sawmill on property located on the northwest side of Buttercup Lane (private), approximately 1000 ft. north of Hinton Road (Route 752), Election District #2, zoned A2. Tax Map #91-(A)-58.

The applicant was present to answer questions. There were no objections raised.

S06-06, request of Karen K. Munoz for a residence involving a division of land on property located on the west side of Longley Road (Route 657) approximately 1/10 mile north of Valley View Road (Route 658), Election District #5, zoned A1. Tax Map #141-(A)-55.

The applicant was present to answer questions. There were no objections raised.

S06-08, request of Crossing Creeks, Inc., for a recovery program for people with mental illness (like use to group home) on property located on the east side of Mountain Valley Road (620) approximately 425' south of Craney Island Road (Route 794), Election District #1, zoned A2. Tax Map #54-(A)-67.

Supervisor Cuevas suggested that the request be considered for the house and ten acres of land.

Donald Siever asked what types of mental illness the residents would have.

Deborah Pugh, Administrative Director, Crossing Creeks, Inc., explained that the patients would not be coming to Crossing Creeks during the "treatment stage" of their illness, when they were trying to get their symptoms under control, but would come there during the "stabilization stage," when they would receive rehabilitation services. She noted that they could suffer from diseases such as bipolar illness, schizophrenia, depression, etc., and that no drugs or alcohol would be permitted.

Ms. Stultz advised that, when the additional cottages were built, the special use permit would allow up to 30 residents.

In response to questioning by Supervisor Cuevas, Ms. Pugh stated that there would be background checks completed on each patient and there would be no patients with criminal, violent or sexual offender backgrounds. She said there would be 24-hours-a-day, seven-days-a-week supervision at the facility and that the operation would be regulated and inspected by the State Department of Social Services.

Nancy Smith said she had been a psychiatric nurse for many years and had lived with her family at a center very much like the one proposed in the special use permit request. She noted that children would be at the facility and that it would be very safe.

Supervisor Cuevas asked what the literature meant by "each patient participating in his own treatment program." Chris Foster, Clinical Director, explained that each patient would work on an individual service plan to help in achieving independent functioning in the community: living in an apartment, managing symptoms, taking medication, shopping, cleaning and work activities.

Ms. Stultz noted that, if the property out to the road were used, it would total 25 to 30 acres.

Phillip Crown said 6 acres seemed small if it was to be used for farming. He pointed out that the structure was a historic house and noted that it should be protected. He mentioned a similar facility in the Town of New Market where "the residents wander around quite a bit." He noted that vehicles travel at a high speed on the road and expressed concern for the safety of pedestrians from the facility using the road.

Supervisor Cuevas said part of the conditions would be 24-hour supervision.

David Rismire said a James Madison University class would be supervising the historic preservation work. He added that the neighbors were invited to visit the facility and get to know the staff. He pointed out that he, too, lived on a country road near a high school. He assured the Board that "we will be very careful about that."

Supervisor Cuevas pointed out that Crossing Creeks had the right to have 6 residents without a special use permit, and he noted that they would have to abide by all state regulations governing such facilities.

Mr. Brown stated that the 10 acres would be for the recovery program and the rest of the property could be used for anything that would be covered in A2 zoning.

Jim Garmendia said Smith Creek Road was an unpaved road that would be greatly impacted if it was to be used by 30 more people.

Mr. Paxton noted that the permit requested four additional living quarters but the structures would not necessarily all be built at the same time.

Patricia Crown said that, although the Crossing Creeks neighbors have been very quiet and she did not even know they were there, she was concerned about adding more structures to the site and the need for ingress and egress to the road.

Deborah Pugh read the Crossing Creeks Mission Statement. "Crossing Creeks seeks to be a supportive, therapeutic community where persons with persistent mental illness can live and work with others for the mutual benefit of all. Crossing Creeks seeks to nurture a sense of engagement, belonging and hope and to facilitate practical life skills for meaningful integration with the larger society."

John Tenasak, Program Manager, said he was "devoted to the program" and had been living at the facility since May. He invited the neighbors to visit and spend time with the staff and residents.

S06-09, request of Donald S. Congdon for a residence involving a division from grantor to self on property located on the south side of Arkton Road (Route 798) approximately 1-1/2 miles east of North Valley Pike (Route 11), Election District #1, zoned A1. Tax Map #68-(A)-7.

The applicant was present to answer questions.

S06-10, request of Commonwealth Rescue Systems, Inc., for motor vehicle sales on property located on the southeast side of John Wayland Highway (Route 42) approximately 3/4 mile west of Erickson Avenue (in City), Election District #4, zoned B2C. Tax Map #108-(A)-124.

At 8:04 p.m., Chairman Breeden closed the public hearing and called the regular meeting back to order.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S06-05, request of Allen Knicely for a sawmill on property located on the northwest side of Buttercup Lane (private), approximately 1000 ft. north of Hinton Road (Route 752), Election District #2, zoned A2.

- 1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- 2) Building shall comply with the Uniform Statewide Building Code, and the proper permits shall be obtained.
- 3) A commercial entrance permit shall be obtained from VDOT's Residency Office, and a copy of said permit shall be presented to the Community Development Department prior to obtaining building permits.
- 4) Entrance shall be constructed in accordance with the entrance permit prior to the business opening.
- 5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- 6) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- 7) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- 8) Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on the VDOT right-of-way.
- 9) The business shall not begin operation until a certificate of occupancy is issued by the County. No

certificate of occupancy shall be issued until all other conditions of this permit are met.

At the request of Chairman Breedon, on motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDON - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S06-06, request of Karen K. Munoz for a residence involving a division of land on property located on the west side of Longley Road (Route 657) approximately 1/10 mile north of Valley View Road (Route 658), Election District #5, zoned A1.

Noting that he would like for the applicants and neighbors to spend some time together, reviewing the particulars and plans for the facility, on motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDON - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled S06-08, request of Crossing Creeks, Inc., for a recovery program for people with mental illness (like use to group home) on property located on the east side of Mountain Valley Road (620) approximately 425' south of Craney Island Road (Route 794), Election District #1, zoned A2.

Supervisor Cuevas said he had visited the Congdon site and had heard no opposition to the proposed use. He noted that the applicant planned to live on a small tract and sell the rest for agricultural use. On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDON - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S06-09, request of Donald S. Congdon for a residence involving a division from grantor to self on property located on the south side of Arkton Road (Route 798) approximately 1-1/2 miles east of North Valley Pike (Route 11), Election District #1, zoned A1.

- 1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- 2) Manufactured home shall comply with the Virginia Manufactured Home Safety Regulations (MHSR).
- 3) VDOT reserves the right to require future entrance upgrades should conditions warrant.

- 4) The tongue shall be removed from the manufactured home, unless included in the skirting, within sixty (60) days of final inspection.
- 5) If the deed exception is made within two years from the date of approval of the permit, there shall be no set time for the residence to be placed on the property.
- 6) The residence shall not be used for rental purposes.
- 7) Residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S06-10, request of Commonwealth Rescue Systems, Inc., for motor vehicle sales on property located on the southeast side of John Wayland Highway (Route 42) approximately 3/4 mile west of Erickson Avenue (in City), Election District #4, zoned B2C.

- 1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- 2) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- 3) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- 4) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- 5) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- 6) Off-street parking shall comply with the Rockingham County Code, and there shall be no parking on the VDOT right-of-way.
- 7) Any alterations to the existing building shall comply with the Uniform Statewide Building Code and the proper permits shall be obtained.
- 8) If there is no work done that requires building permits, there will be no certificate of occupancy. In that case, applicant shall notify the Zoning Administrator when he opens for business.

- 9) If there is work done that requires building permits, the business shall not open until a certificate of occupancy is issued by the County.

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PUBLIC HEARING - REZONING REQUESTS.

At 8:10 p.m., Chairman Breeden called the meeting back to order and declared it open for a public hearing on the following rezoning applications. Ms. Henderson reviewed the particulars of the requests.

RZ05-24, request of Jeffery Wayne Hensley, 112 Mt. Olivet Church Road, Elkton, to rezone one acre from A2 (General Agricultural) to B1-C (General Business with Conditions) on a portion of tax parcel 129 (A) 63. This site is located on the west side of Mt. Olivet Church Road (Route 644), approximately 350 feet south of Spotswood Trail (Route 33) in Election District #5. The Comprehensive Plan designates this area as Commercial.

On September 28, 2005, the staff made the following recommendations. "The Comprehensive Plan designates this area for commercial development. A number of low-impact commercial uses, such as a professional office, an equipment rental business, and a computer/internet-based business are in near proximity. A church, residences, and agriculture are north, west, and south of the parcel. B1 uses are limited due to the size of the parcel and the private well. However, staff recommends tabling this request to give the applicant the opportunity to address VDOT's concern."

On October 4, 2005, the Planning Commission concurred with staff's recommendation and tabled the request. The Commission stated that tabling this request would give the applicant more time to address issues.

On December 6, 2005, revised proffers were received and staff stated, "The applicant has revised the proffers to eliminate all B1 uses except a contractor's business with a sales office and equipment storage. The building design and a tree buffer also have been proffered." Given the revised proffers submitted by the applicant, the Planning Commission recommended approval of this request by a 5-0 vote.

Mike Whedbee stated that he had a contract with the applicant to purchase the property. He said he would like to re-locate his small contracting business. He noted that the use would be for equipment as the material would be delivered directly to the work site.

No objections were raised.

RZ05-31 Pugh Investments, 2340 S. Main Street, Harrisonburg, to rezone 1.688 acres from A-2 (General Agricultural) to B1-C (General Business with Conditions) on tax parcels 126 (2) A1 and 126 (2) A2. This site is located on the northwest corner of the intersection of Indian Trail Road (Route 620) and Spotswood Trail (Route 33) in Election District #3. The Comprehensive Plan designates this area as Agricultural Reserve in the Urban Growth Area. The applicant wants to construct professional office space for a real estate agency and other offices.

On November 23, 2005, staff recommended approval, stating, "The proposed site is adjacent to a church; single-family residences; and Crossroads Farm, a planned residential development, which integrates both commercial and residential uses. While a variety of B1 uses could occur on the site, any structure would need to be constructed in substantial compliance with the architectural rendering proffered by the applicant. The Comprehensive Plan encourages a variety of shops and offices at the core or the edge of neighborhoods that supply the weekly needs of households. This rezoning is expected to be compatible with surrounding uses in form and function." On December 6, 2005, the Planning Commission concurred with staff's recommendation and recommended approval of this request with a 5-0 vote.

The applicant submitted revised proffers on January 18, 2006, which expand the list of uses that would be excluded and elaborate on the architectural style of the proposed structure.

Mike Pugh explained that his company, Old Dominion Realty, had expanded greatly and needed a new location for about half of its employees. He stated that the existing house has a one-inch sewer line that crosses Route 33 and comes under Indian Trail. He said the water line pressure would be adequate to serve the building but no more. It was pointed out that a church addition was built on the adjacent property without an increase in the sewer line capacity.

Kim Sandum expressed concern that the rezoning would set a precedent for further development in the future.

Mr. Paxton pointed out that a new line may have to be installed to allow for a fire hydrant on that side of the road.

At 8:30 p.m., Chairman Breeden closed the public hearing and called the regular session back to order.

At the request of Chairman Breedon, on motion by Supervisor Ahrend, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDON - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following proffers, the Board approved RZ05-24, request of Jeffery Wayne Hensley to rezone one acre from A2 (General Agricultural) to B1-C (General Business with Conditions) on a portion of tax parcel 129 (A) 63. This site is located on the west side of Mt. Olivet Church Road (Route 644), approximately 350 feet south of Spotswood Trail (Route 33) in Election District #5. The Comprehensive Plan designates this area as Commercial.

PROFFERS FOR JEFFERY HENSLEY
RZ05-24
December 13, 2005
REZONING OF JEFFERY HENSLEY
FROM A2 TO B1-C
PART OF TM #129 (A) 63

The property is to be used for following:

1. Construct a 40-foot by 80-foot by 16-foot pole building to be limited to the following: (See plans and survey.)
 - a. Sales office for small contracting business with parking in front.
 - b. Equipment storage
 - c. Display building
2. Drill a well. (No public water available.)
3. Hook on to public sewer, verified with Phillip Rhodes at Rockingham Public Utilities.)
4. Install landscaping that is suited for area.
 - a. Tree buffer on north, south and west sides of site.
 - b. Install shrubs at road and in front of building facing road.
5. Will grant VDOT a 25-foot right-of-way in front of lot as requested.

On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDON - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following proffers, the Board approved RZ05-31, request of Pugh Investments to rezone 1.688 acres from A-2 (General Agricultural) to B1-C (General Business with Conditions) on tax parcels 126 (2) A1 and 126 (2) A2. This site is located on the northwest corner of the intersection of Indian Trail Road (Route 620) and Spotswood Trail (Route 33) in Election District #3. The Comprehensive Plan designates this area as Agricultural Reserve in the Urban Growth Area. The applicant wants to construct professional office space for a real estate agency and other offices.

Rezoning request
FBF Properties LC
Tax Maps: 126-2-A1 and 126-2-A2

In regard to the rezoning request, the following conditions are submitted which are to be considered part of the rezoning request:

1. Excluded uses of the property shall be: Bus Station, Car Wash, Service Station, Public Garage, Machine Welding, Monument Works, Water Filling Station, Water Hauling, Seed & Feed Store, Golf Driving Range, Hotel/Motel, Sale of Travel Trailers, Auto Sales, General Country or Convenience Store, Theater Production Outdoor, Kennel, Service Station, Drive-in Eating or Drinking Facility (not to exclude a community deli, ice cream shop, sandwich or coffee shop with hours not to extend past 11:00 PM.)
2. All development requiring sewage disposal shall be connected to and served by public water and sewer systems.
3. Access to Rt. 33 shall be limited to one (1) entrance.
4. A landscape buffer shall be established along the Northern lines of the property to screen the existing residential uses.
5. The building will be constructed substantially similar to the plan submitted. Roofing will be black or gray. Exterior colors will be earth tones.

Sincerely,
Michael W. Pugh
FBF Properties, LC
Pugh Investments, LC

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AMENDMENTS TO CHAPTER 14, SOLID WASTE ORDINANCE.

The Board considered for adoption an ordinance, effective April 1, 2006, to amend and reordain certain sections of Chapter 14 of the Rockingham County Code related to refuse, garbage and weeds to, among other things, better define what types of debris and garbage will be accepted at the Rockingham County Landfill and to require the separation of various types of debris.

Supervisor Kyger asked if the Farm Bureau had submitted any recommendation on this proposal. He indicated that he would prefer to notify the general public before taking action. He expressed concern that residents in rural areas would not know about the changes until they went to the landfill to deposit refuse. He noted that the County had done a good job in convincing people to use the landfill and he did not want to discourage that use in any way.

Supervisor Cuevas moved and Supervisor Ahrend seconded to adopt the following ordinance, with the understanding

that the towns and large organizations, such as the Farm Bureau, would be notified of the changes taking place that a 60-day grace period would be given for the new regulations to go into effect.

The motion adopting the following ordinance carried by a vote of 5 to 0, voting recorded as follows: AHREND – AYE; BREEDEN – AYE; CUEVAS – AYE; FLOYD – AYE; KYGER – AYE.

Chapter 14

REFUSE, GARBAGE AND WEEDS

Article I. In General

- § 14-1. Definitions.
- § 14-2. Improper disposal of refuse prohibited.
- § 14-3. Accumulation of refuse on premises in open view.

Article II. Solid Waste Disposal

- § 14-4. Solid waste disposal facilities.
- § 14-5. Unacceptable solid waste.
- § 14-6. Acceptable solid waste.
- § 14-7. Fees.
- § 14-8. Disposal facility operations.
- § 14-9. Burning of solid waste at county landfill.
- § 14-10. Solid waste disposed of under this chapter deemed property of county.
- § 14-11. County not responsible for loss of valuables.
- § 14-12. Enforcement of chapter.
- § 14-13. Violations of article.
- § 14-14. Validity.
- § 14-15. Authority to promulgate rules and regulations.
- §§ 14-16, 14-17. Reserved.

Article III. Herbicides

Division 1. Generally

- § 14-18. Board of supervisors--Powers and duties.
- § 14-19. Same--Right of entry.
- § 14-20. Same--Delegation of authority.

Division 2. Use

- § 14-21. Reserved.
- § 14-22. Low volatile phenoxy herbicides.
- § 14-23. Amine herbicide formulations.
- § 14-24. Application of permitted phenoxy herbicides and dicamba.

Article IV. Solid Waste Recycling Reporting

- § 14-25. Purpose.
- § 14-26. Definitions.
- § 14-27. Annual report.
- § 14-28. Proprietary information.
- § 14-29. Effective date.

ARTICLE I.

IN GENERAL*

* **Editors Note:** P.C. Ord. No. 94-14, adopted June 22, 1994, amended Art. I, §§ 14-1--14-3, to read as herein set out. Former Art. I, §§ 14-1--14-3 pertained to similar subject matter and derived from an ordinance of 11-14-73 and P.C. Ord. No. 9-88, adopted August 24, 1988.

Sec. 14-1. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Asbestos containing material. Any material or product which contains more than one (1) per cent by weight asbestos.

Ash. The fly ash or bottom ash residual waste material produced from incineration or burning of solid waste or from any fuel combustion.

Bottom ash. Ash or slag remaining in a combustion unit after combustion.

City. The City of Harrisonburg.

Construction and Demolition Debris. Debris from land clearing operations; tree trimmings, tree limbs, logs, stumps, brush, roots or root mat; debris from construction or demolition of any building or structure; metal, wood, masonry, concrete, wire, plumbing materials; debris from land disturbing operations, including but not limited to rock, soil, reinforced concrete, fencing, large volumes or individual pieces of concrete, asphalt, stumps, metal or masonry products.

Contaminated soil. For the purposes of this chapter, a soil that, as a result of a release of human usage, has absorbed physical, chemical, or radiological substances at concentrations above those consistent with nearby undisturbed soil or natural earth materials.

County. Rockingham County.

Department. The Rockingham County Department of Public Works.

Director. The Director of the Department of Public Works.

Discarded material. A material which is abandoned by being disposed of, burned or incinerated, or accumulated, stored or treated (but not used, reused, or reclaimed) before or in lieu of being abandoned by being disposed of, burned or incinerated.

Disposal. The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters.

Fly ash. Ash particulate collected from air pollution attenuation devices on combustion units.

Free liquids. Liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

Garbage. Readily putrescible discarded materials composed of animal, vegetable or other organic matter.

Hazardous waste. A "hazardous waste" as described by the Virginia Hazardous Waste Regulations (VW 672-10-1), whether or not excluded from those regulations as a hazardous waste.

Ignitable waste. (a) Liquids having a flash point of less than 140° F (60° C) as determined by the methods specified in Part III of the Virginia Hazardous Waste Management Regulations; (b) Non-liquids liable to cause fires through friction, absorption of moisture, spontaneous chemical change or retained heat from manufacturing or liable, when ignited, to burn so vigorously and persistently as to create a hazard; (c) Ignitable compressed gases; and/or oxidizers.

Industrial waste. Any solid waste generated from manufacturing, industrial, or repair processes, or commercial sales, that is not a regulated hazardous waste.

Infectious waste. Solid wastes defined to be infectious by the Infectious Waste Management Regulations (VR 672-40-01) as promulgated by the Virginia Waste Management Board.

Institutional waste. All solid waste emanating from institutions such as, but not limited to, hospitals, nursing homes, orphanages, and public or private schools. It can include infectious waste from health care facilities and research facilities that must be managed as an infectious waste.

Junk. Scrap discard material and ferrous or non-ferrous metals including, but not limited to, dismantled, wrecked or junk vehicles, farm machinery, or parts thereof.

Lead acid battery. For the purposes of these regulations, any wet cell battery.

Noncommercial. Activities performed by residential owners or occupants on and for the residential property thereof.

Permit. Commonwealth of Virginia issued solid waste management permit which authorizes the holder of such permit to operate a solid waste management facility.

PCB. Any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contain such substance (see § 761.3, part 761, Title 40, Code of Federal Regulations).

Person. An individual, corporation, partnership, association, a governmental body, a municipal corporation or any other legal entity.

Recycling. The process of separating a given product or material from the waste stream and processing it so that it may be used again as material input for a product that may or may not be similar to the original product.

Refuse. All solid waste products having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage,

trash, rubbish, litter, junk, residues from clean up of spills or contamination, or other discarded materials.

Resource recovery system. A solid waste management system which provides for collection, separation, use, reuse, or reclamation of solid wastes, recovery of energy and disposal of non-recoverable waste residues.

Rubbish. Combustible or slowly putrescible discarded materials which include, but are not limited to, trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags and other combustible or slowly putrescible materials not included under the term "garbage".

Satellite solid waste disposal facility. Facilities located in the county for the collection of solid waste to be transported to the county sanitary landfill.

Sanitary landfill. An engineered land burial facility for the disposal of household waste which is so located, designed, constructed and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes in accordance with its solid waste management permit.

Sludge. Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of treated effluent from a wastewater treatment plant.

Solid waste. Discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from any type of activity. For purposes of this chapter, a material is not a solid waste if it is regulated by state or federal statutes or regulations concerning air or water pollution control, or if it is not a regulated solid waste under the Virginia Solid Waste Management Regulations (VR 672-20-10).

Solid waste hauler. Any person engaged in removing or transporting the solid waste of another for compensation.

Solid waste disposal facility. A solid waste management facility designed for the disposal or incineration of solid waste.

Solid waste management facility. A site used for planned treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

Vegetative Matter. Debris generated from grass clippings, tree or shrubbery, trimmings, branches, tree limbs, logs, stumps, or leaves.

White goods. Any stoves, washers, hot water heaters, other large appliances.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-2. Improper disposal of refuse prohibited.

(a) *Generally.* It shall be unlawful for any person to throw, place, deposit or allow to accumulate on or in any highways, streets, rights-of-way, rivers, streams, stream beds, parks or public property or private premises any refuse or any matter or substance or thing calculated to render such location unclean, unsightly, unsafe to any person using such location or liable to injuriously affect the health of the community. No person shall transport any garbage, trash or any other waste or refuse substance upon the public highways in the County in an open or uncovered vehicle unless such solid waste is transported in a covered container or bag designed for such purpose.

(b) *Arrest.* When any person is arrested for violations of this section and the matter alleged to have been dumped or disposed of on or in a highway, street, right-of-way, river, stream, stream bed, park or public property or private premises has been ejected from a motor vehicle or boat, the arresting officer may comply with the provisions of Section 46.2-936 of the Code of Virginia, 1950, as amended, in making such arrest.

(c) *Presumption of guilt as to owner of motor vehicle or boat.* When a violation of this section has been observed by any person and the refuse has been disposed of from a motor vehicle or boat, the owner or operator of such motor vehicle or boat shall be presumed to be the person disposing of such matter, provided, the presumption shall be rebuttable by competent evidence.
(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-3. Accumulation of refuse on premises in open view.

(a) *Generally.* It shall be unlawful for any person to allow any refuse to be, remain or accumulate on premises owned by such person, except when the refuse is in a building or enclosure which hides the refuse from view or is in conformity with Chapter 5 or with Article V of Chapter 11.

(b) *Abatement of violation.* Any person violating the provisions of this section shall, within fifteen (15) days after receiving notice of the violation, bring the premises into conformance with subsection (a) of this section.

(c) *Notice of violation.* The notice provided for in subsection (b) of this section shall be by letter stating the manner in which this section is being violated, the description and location of the premises, the name of the owner of the premises, and the period of time within which the premises shall be cleared of the violation. The letter shall be signed by the zoning administrator on behalf of the county and shall be served upon the owner by an officer of the county sheriff's department, or sent to the owner by certified mail.
(P.C. Ord. No. 94-14, 6-22-94)

ARTICLE II.

SOLID WASTE DISPOSAL*

* **Editors Note:** P.C. Ord. No. 94-14, adopted June 22, 1994, amended Ch. 14, Art. II, §§ 14-4--14-17, to read as herein set out. Former Art. II, §§ 14-4--14-17 pertained to the county landfill, and derived from an ordinance of 11-14-73, and the following:

P.C. Ord. No.	Date	P.C. Ord. No.	Date
2-90	2-14-90	8-92	4-22-92
4-92	4-22-92	7-93	7-14-93

Sec. 14-4. Solid waste disposal facilities.

(a) *County sanitary landfill.* Residents of the county and solid waste haulers may dispose of solid waste generated within the county at the county sanitary landfill provided such waste conforms with the requirements of this article. Residents of the city and solid waste haulers may dispose of solid waste generated within the city at the county sanitary landfill provided such waste conforms with the requirements of this article and provided that the county is required to accept such solid waste in accordance with a binding and enforceable solid waste disposal agreement between the county and the city.

(b) *County satellite solid waste disposal facilities.* Residents of the county may dispose of solid waste generated within the county at any county satellite solid waste disposal facility provided such waste conforms with the requirements of this article.

(c) *City resource recovery system.* The Director may, at his sole discretion, direct solid waste generated in the county to the city resource recovery system provided that the City is required to accept such solid waste in accordance with a binding and enforceable solid waste disposal agreement between the county and the city.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-5. Unacceptable solid waste.

(a) A solid waste is unacceptable for disposal at any solid waste disposal facility contained in section 14-4 if it is deemed unacceptable under any of the following:

- (1) County sanitary landfill operating permit;
- (2) City resource recovery system permit; or
- (3) Applicable state and federal statutes and regulations concerning solid waste management.

(b) Whether or not classified as unacceptable in subsection (a) hereinabove, the following types of waste are unacceptable for disposal at the Rockingham County Landfill or the Resource Recovery Facility unless otherwise stated.

- (1) Free liquids and poorly contained liquids that have not been absorbed on solid material.
- (2) Hazardous waste or untreated bio-medical waste.
- (3) Solid wastes, residues, or soils containing 1.0 ppb (parts per billion) or more of dioxins.

- (4) Solid wastes, residues, or soils containing PCB's.
- (5) Unstabilized sewage sludge or sludges that have not been dewatered.
Acceptable sludge must be approved by the director in accordance with the applicable permit.
- (6) Pesticide containers that have not been triple rinsed and crushed.
- (7) Drums and other bulk containers which have not been emptied, properly cleaned, opened at both ends and crushed.
- (8) Waste oil that has not been adequately adsorbed in the course of a site clean-up.
- (9) Contaminated soil unless approved by the director of public works in accordance with the applicable permit.
- (10) Lead acid batteries.
- (11) Dangerous materials or substances such as poisons, acids, caustics, infectious materials and explosives.
- (12) Unusual quantities of materials resulting from manufacturing, industrial or agricultural activities.
- (13) Large and bulky materials which may require special preparation, processing, or handling for disposal, such as motor vehicles or parts thereof and tree trunks and stumps.
- (14) Any materials which create an unusually bad odor such as manure or rotten and unhatched eggs.
- (15) Hot or warm ashes.
- (16) Infectious waste.
- (17) Untrimmed tree limbs and trunks which are both over six (6) inches in diameter and over eight (8) feet in length.
- (18) Asbestos-containing waste material.
- (19) Industrial waste which has not been approved by the director in accordance with the applicable permit.
- (20) Institutional waste which contains infectious waste.
- (21) Ignitable waste.
- (22) Dead animals, unless approved by the Director in accordance with the applicable permit.

- (23) Any material that, in the opinion of the director, would constitute a danger to county employees or county property.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-6. Acceptable solid waste.

- (a) Any solid waste that is not classified as unacceptable in section 14-5, is acceptable solid waste.
- (b) The county, at its sole discretion, may accept at its sanitary landfill solid waste that does not comply with the city resource recovery system permit provided that such solid waste is not otherwise unacceptable under section 14-5.
- (c) The director may direct any acceptable solid waste to the city resource recovery system provided that such waste is compatible with the system and otherwise meets the requirements of a binding and enforceable agreement between the county and the city.
- (P.C. Ord. No. 94-14, 6-22-94)
- (d) The following acceptable solid waste must be separated prior to disposal at the landfill: construction and demolition debris, vegetative matter, and other recyclables as determined by the Director.

Sec. 14-7. Fees.

- (a) Effective September 1, 2005, fees for disposal of acceptable solid waste generated in the county shall be as follows:
- (1) No charge shall be made for the disposal of acceptable solid waste generated in the normal, day-to-day operation of homes or farms in the county which is transported to the landfill or satellite collection centers on an individual basis.
- (2) All tires shall be assessed at the following rates:
- a. Passenger car tire without rim – one dollar and twenty cents (\$1.20).
 - b. Passenger car tire with rim – two dollars and fifty cents (\$2.50).
 - c. Truck tire – two dollars and forty cents (\$2.40).
 - d. Tire already split – sixty cents (\$0.60).
 - e. Heavy equipment tires – one hundred dollars per ton (\$100.00).
- (3) Charges for disposal of all other acceptable solid waste shall be at the rate of thirty- five dollars (\$35.00) per ton as weighed by the landfill scale. In the event the scale is not operable, the rates shall be as follows:
- a. Pickup truck with no racks – six dollars (\$6.00).
 - b. Single axle trailer, pulled by car or pickup truck, or pickup truck with racks – seventeen dollars and fifty cents (\$17.50).
 - c. Single axle dump truck (small, less than 1 ton) – seventeen dollars and fifty cents (\$17.50).

- d. Single axle dump truck (standard) plus tandem axle trailer – fifty dollars (\$50.00).
- e. Stake body truck or equivalent – seventy-five dollars (\$75.00).
- f. Tandem axle dump truck or equivalent – one hundred ten dollars (\$110.00).
- g. Compactor type vehicle with a capacity of up to ten (10) cubic yards or equivalent – one hundred ten dollars (\$110.00).
- h. Compactor type vehicle with a capacity of ten (10) cubic yards to nineteen (19) cubic yards or equivalent – two hundred dollars (\$200.00).
- i. Compactor type vehicle with a capacity of twenty (20) cubic yards to twenty-nine (29) cubic yards or equivalent – two hundred fifty dollars (\$250.00).
- j. Compactor type vehicle with a capacity of at least thirty (30) cubic yards or equivalent – three hundred dollars (\$300.00).

(b) Fees for disposal of solid waste generated in the city, delivered by residents or private refuse haulers, not under contract with the city, and accepted by the county shall be at the city's then current rate structure.

(c) Payment for refuse disposal service shall either be made at the time of disposal or within twenty (20) days of the billing date for customers who have established accounts for such purpose. Failure to pay for service by the due date shall result in interest being assessed on the unpaid balance. Interest shall commence on the due date and shall accrue at the rate of one (1) percent per month on the unpaid balance.

(P.C. Ord. No. 94-14, 6-22-94; P.C. Ord. No. 96-17, 10-23-96; P.C. Ord. No. 97-7, 6-11-97; P.C. Ord. No. 99-1, 2-10-99, effective 4-1-99; P.C. Ord. No. 99-7, 6-9-99, effective 7-1-99; P.C. Ord. No. 02-14, 12-11-02)

Sec. 14-8. Disposal facility operations.

(a) *Generally.* Acceptable solid waste may be disposed of in the county sanitary landfill or any county satellite solid waste disposal facility only during designated hours of operations and in accordance with the internal rules and regulations of the applicable landfill or satellite facility. All persons offering such solid waste for disposal, may be required to submit proof of the origin of such solid waste.

(b) *Disposal of certain materials:* The following materials shall be disposed of at a special place within the landfill, at the discretion of the landfill supervisor or his designated representative:

- (1) Concrete chunks and large rocks, including inert construction and demolition debris.
- (2) White goods, including stoves, furnaces, and appliances.
- (3) Metal pipe.
- (4) Acceptable recyclable material.
- (5) Tree limbs and trunks over six (6) inches in diameter which are otherwise acceptable under this chapter.
- (6) Construction and demolition wood materials.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-9. Burning of solid waste at county landfill.

It shall be unlawful for any unauthorized person to set fire to, or burn any solid waste which has been disposed of in the county landfill.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-10. Solid waste disposed of under this chapter deemed property of county.

All acceptable solid waste disposed of under this article is the property of the county. No person shall separate, collect, carry off or otherwise handle such solid waste without the written authorization of the county administrator.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-11. County not responsible for loss of valuables.

The county will not be held responsible for the loss of any valuables which may be inadvertently lost within solid waste disposed of under this article. However, the county will cooperate with the owner and use reasonable efforts to locate such valuables and restore them to the rightful owner.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-12. Enforcement of chapter.

Generally. The health department and the department of public works shall enforce the provisions of this chapter. Nothing contained in the chapter, however, shall limit the authority of any law enforcement officer having jurisdiction, to issue appropriate criminal or other lawful process for violations committed in his presence, or upon proper warrant.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-13. Violations of article.

(a) Any person who violates any provision of this article, upon such finding by an appropriate circuit court, shall be assessed a civil penalty of not more than twenty-five thousand dollars (\$25,000.00) for each day of such violation. Each day of violation of each requirement shall constitute a separate offense.

(b) In addition to the penalties provided above, any person who violates any provision of this article shall be guilty of a class 1 misdemeanor unless a different penalty is specified.

(c) Any person who knowingly makes any false statement, representation or certification regarding the origin of any waste disposed of under this article shall be guilty of a class 1 misdemeanor and shall be subject to suspension from the use of the landfill for a period of time not to exceed one (1) year.

(d) The county shall be entitled to an award of reasonable attorney's fees and cost in any action brought under this article which it substantially prevails on the merits of the case, unless special circumstances would make an award unjust.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-14. Validity.

(a) All articles or parts of articles in conflict herewith are hereby repealed.

(b) The invalidity of any section, clause, sentence, or provision of this article shall not affect the validity of any other part of this article which can be given effect without such invalid part or parts.

(P.C. Ord. No. 94-14, 6-22-94)

Sec. 14-15. Authority to promulgate rules and regulations.

The county administrator and the director of public works may promulgate such rules and regulations as are necessary to govern solid waste disposal within the purposes of this chapter. The rules and regulations so promulgated shall have the force and effect of law, and may be amended, altered or repealed by the county administrator as is appropriate. A copy of the current rules and regulations shall be posted in a conspicuous place at the county's disposal facilities and made available, upon request, to interested individuals.

(P.C. Ord. No. 94-14, 6-22-94)

Secs. 14-16, 14-17. Reserved.

ARTICLE III.

HERBICIDES

DIVISION 1.

GENERALLY

Sec. 14-18. Board of supervisors--Powers and duties.

It shall be the duty of the board to exercise or perform the powers and duties imposed upon it by this article. The board may cooperate with any person in carrying out the provisions of this article. The board of supervisors may, after due public notice, by motion and majority vote, limit the application of this article to described geographical areas of the county, such areas to be known as the regulated area and the board shall be empowered to rescind the exemption of any area in a like manner.

(11-10-69, § 2)

Sec. 14-19. Same--Right of entry.

The board of supervisors may make reasonable inspections at reasonable hours of any premises and property in the county to enforce this article.

(11-10-69, § 7)

Sec. 14-20. Same--Delegation of authority.

The authority vested in the board by this article may be delegated to such employees of the county as the board may designate.

(11-10-69, § 8)

DIVISION 2.

USE

Sec. 14-21. Reserved.

Sec. 14-22. Low volatile phenoxy herbicides.

Low volatile phenoxy herbicides shall not be used in the county between April 15 and June 1 of any calendar year.

(11-10-69, § 4)

Sec. 14-23. Amine herbicide formulations.

Amine herbicide formulations may be used in the county throughout the calendar year.

(11-10-69, § 5)

Sec. 14-24. Application of permitted phenoxy herbicides and dicamba.

The application of permitted phenoxy herbicides and dicamba: Low volatile phenoxy herbicides and amine formulated and oil soluble amine phenoxy herbicides and dicamba, shall be done under the following conditions:

- (a) When the ground wind speed does not exceed ten (10) miles per hour at time of application.
 - (b) The pressure in the sprayer at the time of application shall not exceed thirty (30) pounds per square inch at the nozzle.
 - (c) No phenoxy herbicides shall be applied with the use of fixed-wing aircraft.
- (11-1-69, § 6)

ARTICLE IV.

SOLID WASTE RECYCLING REPORTING

Sec. 14-25. Purpose.

The purpose of this article is the furtherance of solid waste management and the recycling of solid waste.
(P.C. Ord. No. 14-91, 11-13-91)

Sec. 14-26. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

Generator: Any commercial or industrial enterprise whose act or process produces solid waste as defined herein.

Manage: To collect, store, treat, transport and dispose of solid waste as defined herein.

Recycling: The process of separating a given waste material from the waste stream and processing it so that it is used again as a raw material for a product, which may or may not be similar to the original product.

Reused: Once having been a waste and being:

- (1) Employed as an ingredient (including use as an intermediate) in a process to make a product, excepting those materials possessing distinct components that are recovered as separate end products; or
- (2) Employed in a particular function or application as an effective substitute for a commercial product or natural resources.

Solid waste: Any garbage, refuse, sludge and other discarded material, including solid, semisolid or contained gaseous material, resulting from industrial, commercial, residential, mining and agricultural operations, or community activities does not include:

- (1) Solid or dissolved material in domestic sewage;
- (2) Solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the state water control board; or
- (3) Source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

Source reduction: Any action that reduces or eliminates the generation of waste at the source, usually within a process. Source reduction measures include among others, process modifications, feedstock substitutions, improvements in feedstock purity, improvements in housekeeping and management practices, increases in the efficiency of machinery, and recycling within a process.
(P.C. Ord. No. 14-91, 11-13-91)

Sec. 14-27. Annual report.

(a) All solid waste generators, all companies that handle solid waste, and all companies recycling materials generated within the unincorporated areas of Rockingham County, Virginia, shall furnish to the County of Rockingham annual reports filed within thirty (30) days after the end of each calendar year containing the following:

- (1) The name and address of the reporting party.
- (2) The total quantity, or volume, and type of solid waste recycled by the generator during the reporting period and the name and location of the receiving party.
- (3) The total quantity or volume of solid waste that has been the subject of source reduction or reuse as defined herein.

(b) Any report required under this section shall be based on actual volume or weight of all substances. Where actual volume or weight cannot be accurately determined, the volume or weight may be reported using carefully estimated data. Any such report shall include a description of the basis for the reported data.

(c) Recycled solid waste included in the report shall include only those solid wastes generated within the unincorporated area of Rockingham County, Virginia.

(P.C. Ord. No. 14-91, 11-13-91)

Sec. 14-28. Proprietary information.

Nothing hereunder shall be construed to require any generator to report information of a proprietary nature. Where any generator fails to report any information otherwise required hereunder based upon a determination that such

information is of the proprietary nature, the generator shall specify in its report the nature of the information withheld and the basis for its determination that such information is of a proprietary nature.
(P.C. Ord. No. 14-91, 11-13-91)

Sec. 14-29. Effective date.

This article shall be in full force and effect on April 1, 2006.
(P.C. Ord. No. 14-91, 11-13-91)

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COMMITTEE REPORTS.

The Board heard Committee Reports by Board members and staff.

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CLOSED MEETING.

On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 8:50 to 9:40 p.m. in accordance with State Code Section 2.2-3711(A) related to discussion concerning location of a business in the County where no previous announcement has been made; discussion of annexation matters as they relate to the Towns of Bridgewater, Dayton and Mt. Crawford; and contractual matters.

At 9:40 p.m., Chairman Breeden called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER RESOLUTION NO: X06-02
SECOND: SUPERVISOR AHREND MEETING DATE: JAN. 25, 2006

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business

matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER

NAYS: NONE

ABSENT: NONE

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ADJOURNMENT.

By consensus, the Board adjourned the meeting at 9:41 p.m.

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Chairman